

**Comparative Analysis of Mongolia's Legal Framework and ADB Safeguard Policy Statement:
Indigenous Peoples**

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions	(C) Extent of Equivalence¹	(D) Recommended Gap-filling Measures
<p>Scope and Triggers: (Definition of Indigenous Peoples) The term Indigenous Peoples is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region.A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.</p>			
<p>Key Element (1) Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others</p>	<p>Constitution 1992, amended 1999 Article 8 2. Section 1 of this Article shall not affect the right of national minorities of other tongues to use their native languages in education and communication and in the pursuit of cultural, artistic and scientific activities.</p>	<p>Partial equivalence The Constitution recognizes that there are national minorities, but does so only in the context of national minorities' use of their native languages.</p>	<p>Consider legal measures that would establish triggers for identifying national minorities, in addition to the constitutional recognition of their right to use their native languages.</p>
<p>Key Element (2) Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories</p>	<p>No corresponding legal provision.</p>	<p>No equivalence</p>	<p>See Scope and Triggers, Key element 1.</p>
<p>Key Element (3) Customary cultural...institutions that are separate from those of the dominant society and culture</p>	<p>Constitution 1992, amended 1999 Article 8 2. Section 1 of this Article shall not affect the right of national minorities of other tongues to use their native languages in education and communication and in the pursuit of cultural, artistic and scientific activities.</p>	<p>Partial equivalence The Constitution recognizes that there are national minorities and guarantees their right to</p>	<p>See Scope and Triggers, Key element 1.</p>

¹ "Full Equivalence" denotes that Mongolia's legal requirement(s) are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. "Partial Equivalence" denotes that Mongolia's legal requirement is in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and "No Equivalence" denotes that no Mongolia legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions	(C) Extent of Equivalence ¹	(D) Recommended Gap-filling Measures
		use their native languages in cultural activities.	
Key Element (4) Customary... economic... institutions that are separate from those of the dominant society and culture	No corresponding legal provision.	No equivalence	See Scope and Triggers, Key element 1.
Key Element (5) Customary... social, institutions that are separate from those of the dominant society and culture	Constitution 1992, amended 1999 Article 8 2. Section 1 of this Article shall not affect the right of national minorities of other tongues to use their native languages in education and communication and in the pursuit of cultural, artistic and scientific activities.	Partial equivalence The Constitution recognizes that there are national minorities and guarantees their right to use their native languages in activities that may be considered social.	See Scope and Triggers, Key element 1.
Key Element (6) Customary... political institutions that are separate from those of the dominant society and culture	No corresponding legal provision.	No equivalence	See Scope and Triggers, Key element 1.
Key Element (7) A distinct language, often different from the official language of the country or region	Constitution 1992, amended 1999 Article 8 1. The Mongolian language is the official language of the State. 2. Section 1 of this Article shall not affect the right of national minorities of other tongues to use their native languages in education and communication and in the pursuit of cultural, artistic and scientific activities.	Full equivalence	
Key Element (8) A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.	No corresponding legal provision.	No equivalence	See Scope and Triggers, Key element 1.
Policy Principle 1: Screen early on to determine (i) whether Indigenous Peoples are present in, or have collective attachment to, the project area; and (ii) whether project impacts			

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on Indigenous Peoples are likely.			
<p>Key element (1): Early screening to determine whether Indigenous Peoples are present in, or have collective attachment to, the project area.</p>	<p>Law of Mongolia on Environmental Impact Assessment 1998 (EIA Law 1998) Article 4. Screening of a Project 4.1 New projects as well as the renovation and expansion of existing industrial, service and construction activities and project which use natural resources in different ways shall be subject for screening. 4.2 The screening shall be done prior to mining, procurement of a license of land possession or use as well as implementation of a project. 4.3 The Citizens' Representatives' Khurals of aimags, the capital city, soums, Representatives, their Presidium and local environmental inspectors shall verify the performance of the environmental impact assessment by a citizen, economic entity or organization implementing the project. 4.4 The project implementer shall submit a project description, the technical and economic feasibility study, the work drawings and other related documents to the state administrative central body in charge of nature and environment or the local administrative body for screening according to the classification contained in the appendix to this Law and a screening shall be conducted accordingly. 4.5 The state administrative central body in charge of nature and environment shall approve methodological guidelines for the screening of projects. 4.6 The expert shall perform screening of a project within 12 working days and shall make one of the following conclusions: 4.6.1 the project may be implemented without conducting a detailed environmental impact assessment; 4.6.2 the project may be implemented pursuant to specific conditions: 4.6.3 a detailed environmental impact assessment is required; 4.6.4 rejection of the project on the ground of non-conformity with the relevant legislation, or adverse impact of the equipment and technology on the environment, or absence of the project in the land management plan. 4.7 The state administrative central body in charge of nature and environment shall appoint an environmental impact assessment expert taking into consideration professional ability and work experience. If necessary, relevant specialists may be involved in the assessment work. 4.8 If necessary, the state administrative central body in charge of nature and environment may extend the period indicated in Article 4.6 of this Law.</p>	<p>Partial equivalence</p> <p>The EIA Law 1998 requires screening, but does not require screening for social impacts generally or for impacts on national minorities in particular.</p>	<p>Amend the EIA Law 1998 to explicitly require EIA screening to include social as well as environmental impacts and to stipulate that social impact assessment is mandatory when a project may affect national minorities.</p>
<p>Key element (2): Early screening to determine whether project impacts on Indigenous Peoples are likely.</p>	<p>See Policy Principle 1, Key element 1.</p>	<p>Partial equivalence</p> <p>See Policy Principle 1, Key element 1.</p>	<p>See Policy Principle 1, Key element 1.</p>
<p>Policy Principle 2: Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples. Give full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation</p>			

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measures. Identify social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and intergenerationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.			
<p>Key element (1): Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples.</p>	<p>Environmental Protection Law of Mongolia 1995, amended up to 2005 Article 1. Purpose of this law The purpose of this law is to regulate relations between the State, citizens, business entities and organisations in order to guarantee...an ecologically balanced social and economic development...</p> <p>Article 5. Detailed Environmental Impact Assessment 5.4 The Detailed Environmental Impact Assessment Report shall include the following: 5.4.1 Environmental Baseline data and indices; 5.4.2 Project and technology alternative; 5.4.3 Recommendations for minimizing and mitigating measures as well as eliminating of potential and significant adverse impacts; 5.4.4 Analysis and calculation of the extent and distribution of adverse impact and its consequences; 5.4.5 An estimation of accidents and risks; 5.4.6 Environmental Protection Plan; 5.4.7 Environmental Monitoring Program; 5.4.8 Opinion of citizens and Presidium of soum and district Citizens' Representatives Khurals of the area of the project implementation; 5.4.9 Other issues with regard to cultivated layer of the area of the project implementation and special nature of the project. 5.4.10 Rehabilitation project.</p> <p>The Minerals Law of Mongolia 2006 as amended² Article 11. Responsibilities of government agency 11.1. Government agency in charge of geology and mining issues shall have the following duties: ... 11.1.3 provide geo-ecological research and recommendations with respect to natural and human factors that may have an impact on the social and economic development; ... 11.1.10 conduct research, evaluation and provide recommendations regarding the impact the</p>	<p>No equivalence</p> <p>The Environmental Protection Law does not list analysis of social impacts among the requirements for an EIA report.</p> <p>The EIA Law 1998 does not mention social impact assessment.</p> <p>The Minerals Law 2006 requires EIA and requires the holders of mining licenses generally to protect humans and public health, but there is no requirement that the EIA process must include social impact assessment.</p> <p>The Law on Energy requires EIA in accordance with applicable legislation, and does not establish any requirements for</p>	<p>Amend the Environmental Protection Law and the EIA Law 1998 to explicitly require culturally appropriate and gender-sensitive social impact assessment that assesses potential project impacts on national minorities that will potentially be affected by a proposed project.</p>

² The Minerals Law 2006 was amended in 2013, 2014 and 2015. The texts of those amendments were not available for this assessment. Reportedly, the 2014 amendment requires holders of mining licenses to have surveys conducted by experts in ethnographical, paleontological and archaeological matters. The purpose is to avoid any deterioration of cultural heritage, to ensure that Mongolian law is consistent with the 1972 World Cultural and Natural Heritage Convention, rather than to safeguard national minorities. See: Davaasuren, Orgil. 2015. *The Amendments of 2013, 2014 and 2015 to the Law of Mongolia on Minerals (2006)*. Ulaanbaatar: Ashid Advocates LLP. Available online: <http://www.ashidadvocates.mn/files/publications/Minerals%20law%20%20final%20pdf2.pdf>

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	<p>mining industry has on the social and economic development of Mongolia;...</p> <p>Article 35. General obligations of a license holder. 35.3. A mining license holder shall keep the following documents at the mine:... 35.3.3. environmental impact assessment; 35.3.4. environmental protection plan;...</p> <p>Article 39. Environmental protection obligations of mining license holders 39.1 A mining license holder shall have the following obligations with regard to environmental protection: 39.1.1 an environmental impact assessment and an environmental protection plan shall be prepared by a person set forth in Article 24.1 of this law before obtaining a mining license and by a person who obtained a mining license through tender; 39.1.2 the environmental impact assessment shall identify the possible adverse environmental impacts from the proposed mining operations regarding public health and environment and shall include preventive measures that avoid and minimize such adverse impacts;... 39.1.3. ...The plan shall also identify preventive, comprehensive measures to protect...humans...from the adverse effects of mining operations;...</p> <p>Mongolian Law on Investment 2013³ Article 13. Tax Rate Stabilization 13.1. The rate of taxes to be paid by the legal entity, who is to implement an investment project, shall be stabilized by a way of issuing stabilization certificates to the party specified in the Article 13.5 of this Law.</p> <p>Article 16. Criteria and Duration for Issuing Stabilization Certificate 16.1. A stabilization certificate shall be issued to the investor whose project to be carried out in Mongolia meets the following criteria:... 16.1.2. to get done the environmental impact assessment if required by the law;...</p> <p>Law of Mongolia on Energy 2001 as amended up to 2002 Article 20. A License for Construction of Energy Facilities 20.3. A license for construction of energy facilities shall be granted upon assessment of the environmental impact in accordance with applicable legislation.</p> <p>Article 21. Obtaining a License 21.1. An interested legal entity shall submit an application for a license to the Regulatory Authority or Regulatory Boards of aimag or the capital city.</p>	social impact assessment.	

³ Unofficial translation.

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	<p>21.2. The legal entity must attach the following documents related to activities to be licensed, to its application for a license:...</p> <p>21.2.6. Assessment of the environmental impact;</p> <p>21.2.7. Action plan for environmental protection;...</p> <p>Article 25. Obligations of Licensees</p> <p>25.1. Licensees shall have the following obligations:...</p> <p>25.1.11. To have an assessment of environmental impact undertaken by a relevant authority before starting its operations, to prepare annual plans on environmental protection and rehabilitation, to have them approved by relevant organisations and to implement these plans.</p>		
<p>Key element (2): Assessment process gives full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures.</p>	<p>No corresponding legal provision.</p>	<p>No equivalence</p>	<p>Amend the EIA Law 1998 to stipulate that the EIA process must give full consideration to options affected national minorities prefer in relation to the provision of project benefits and the design of mitigation measures.</p>
<p>Key element (3): Assessment process identifies social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and intergenerationally inclusive.</p>	<p>No corresponding legal provision.</p>	<p>No equivalence</p>	<p>Amend the EIA Law 1998 to stipulate that the EIA process must include social impact assessment, or similar methods, which identifies social and economic benefits for affected national minorities that are culturally appropriate and gender and inter-generationally inclusive.</p>
<p>Key element (4): Project preparation process develops measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.</p>	<p>No corresponding legal provision.</p>	<p>No equivalence</p>	<p>Amend the EIA Law 1998 to stipulate that the project preparation process must develop measures to avoid, minimize, and/or mitigate adverse impacts on national minorities.</p>
<p>Policy Principle 3: Undertake meaningful consultations with affected Indigenous Peoples communities and concerned Indigenous Peoples organizations to solicit their participation</p>			

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(i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner. To enhance Indigenous Peoples' active participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development. Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.			
Key element (1): Affected Indigenous Peoples communities and organizations are consulted in a meaningful manner.	Environmental Protection Law of Mongolia 1995, amended up to 2005 Article 5. Detailed Environmental Impact Assessment 5.4 The Detailed Environmental Impact Assessment Report shall include the following:... 5.4.8 Opinion of citizens and Presidiums of soum and district Citizens' Representatives Khurals of the area of the project implementation;... Article 32. Participation of non-Governmental organisations in environmental protection 1. Non-Governmental organisations whose purpose is the protection of the environment and its natural resources may conduct the following environmental protection activities: 1) to conduct public supervision and inspection of implementation of environmental protection legislation, to demand the rectification of breaches and to submit matters to authorised organisations for decision; 2) to submit proposals on environmental protection to the central State administrative body and relevant Hurals and Governors; 3) to organise ecological training and education independently or in co-operation with other concerned organisations; 4) to develop proposals, recommendations, and methodologies for environmental protection and restoration and submit them to the relevant organisation for decision. 2. The Government of Mongolia may delegate special functions of the State executive body for environmental protection by way of contract to non-Governmental organisations whose purpose is environmental protection and shall fund their implementation.	Partial equivalence The Environmental Protection Law requires that an EIA report include the opinions of citizens in the area of project implementation. The law also generally enables the participation of NGOs in environmental protection but does not explicitly include their participation in the EIA process. The law does not explicitly require consultation with national minorities, but does not exclude their participation in consultations.	Amend the Environmental Protection Law and the EIA Law 1998 to explicitly require the participation of affected national minorities in public consultation during the EIA process and to ensure that they are consulted in a meaningful manner.
Key element (2): The scope of consultations includes design, implementation and monitoring of measures to avoid or otherwise minimize, mitigate or compensate for adverse impacts.	See Policy Principle 3, Key element 1.	Partial equivalence See Policy Principle 3, Key element 1. The law requires consultation at the design stage, but not at the implementation and monitoring stages.	Amend the EIA Law 1998 to explicitly stipulate that the scope of consultations during the EIA process must include project design, implementation and monitoring of measures to avoid or otherwise minimize, mitigate or compensate for adverse impacts.
Key element (3): The Scope of consultations includes tailoring project benefits for	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that the scope of consultations includes tailoring project

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affected Indigenous Peoples communities in a culturally appropriate manner.			benefits for affected national minorities in a culturally appropriate manner.
Key element (4): Enhance Indigenous Peoples' active participation in projects affecting them will provide for culturally appropriate and gender inclusive capacity development.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that the design of projects that will impact national minorities must include measures to enhance their active participation in projects affecting them and provide for culturally appropriate and gender inclusive capacity development.
Key element (5): Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.	<p>Constitution 1992, amended 1999 Article 16 The citizens of Mongolia shall be guaranteed the privilege to enjoy the following rights and freedoms:...</p> <p>14) Right to appeal to the court to protect his/her right if he/she considers that the right of freedoms as spelt out by the Mongolian law or an international treaty have been violated; to be compensated for the damage illegally caused by other;...to appeal against a court judgement...</p> <p>Law of Mongolia on Land 2002 Article 63. Settlement of Land Related Disputes 63.1. The following [types of] land related disputes shall be settled by the following organizations and officials: 63.1.1. disputes over the State owned land related to its possession and use between citizens, companies or organizations and governors shall be settled by a governor of the higher level; 63.1.2. disputes between citizens, companies and organizations regarding land use and possession, as well as disputes between land possessors and users regarding contract terms and conditions of land use shall be settled by the governor of the corresponding level;... 63.1.4. disputes over limited use rights for land possessed or used by others as well as over property disputes related to the land shall be settled by the court. 63.2. If citizens, companies or organizations disagree with the decision on land disputes made by the authority or the official referred to in paragraphs 1, 2 and 3 of provision 1 of this article, the dispute shall be settled either by the authority or the official of a higher level, or the court.</p> <p>The Minerals Law of Mongolia 2006 as amended Article 64. Filing of complaints to State bodies</p>	<p>Partial equivalence</p> <p>The Land Law provides for resolving disputes over the possession and use of land.</p> <p>The Constitution generally guarantees the right to sue and to appeal, but national law does not appear to provide for project-specific grievance redress mechanisms.</p> <p>The Minerals Law 2006 provides only for complaints by license holders, but not for complaints by persons affected by mining.</p> <p>The Environmental Protection Law and the</p>	Amend the EIA Law 1998 to explicitly stipulate that the design of projects that will impact national minorities must include a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of affected national minorities' concerns.

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	64.1 Where any actions or failures to act by civil servants or Government agencies has prevented the exercise by license holders of the rights conferred upon them by this law, the citizens or legal persons may file a complaint with the relevant senior officials, State agencies or the courts.	EIA Law do not provide for complaints, appeals, or any other form of grievance redress.	
Policy Principle 4: Ascertain the consent of affected Indigenous Peoples communities to the following project activities: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. For the purposes of policy application, the consent of affected Indigenous Peoples communities refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for such project activities. Broad community support may exist even if some individuals or groups object to the project activities.			
Key element (1): Consent of affected Indigenous Peoples communities is required for project activities that would include commercial development of cultural resources and knowledge of Indigenous Peoples.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that project proponents must secure the consent of affected national minorities for project activities that would include commercial development of their cultural resources and knowledge.
Key element (2): Consent of affected Indigenous Peoples communities is required for project activities that would include physical displacement of Indigenous Peoples from traditional or customary lands.	<p>Constitution 1992, amended 1999</p> <p>Article 6 4. The State shall have the right to hold responsible the land owners in connection with the manner the land is used, to exchange or take it over with compensation on the grounds of special public need, or confiscate the land if it is used in a manner adverse to the health of the population, the interests of environmental protection and national security.</p> <p>Article 16 The citizens of Mongolia shall be guaranteed the privilege to enjoy the following rights and freedoms:...</p> <p>3) Right to fair acquisition, possession and inheritance of movable and immovable property. Illegal confiscation and requisitioning of the private property of citizens shall be prohibited. If the State and its bodies appropriate private property on the basis of exclusive public need, they shall do so with due compensation and payment.</p> <p>Law of Mongolia on Land 2002</p> <p>Article 42. Removing Land Possessed by Others with Compensation or with Replacement Before Expiration of the Contract</p> <p>42.1. The relevant government authority may, after an agreement with the land possessor on</p>	<p>Partial equivalence</p> <p>The Law on Allocation of Land to Mongolian Citizens for Ownership 2002 stipulates in detail how citizens may acquire ownership of land.</p> <p>The Law on Citizenship 1995 does not create categories of citizens nor does it provide that national minorities have greater or fewer rights than other citizens, except that only a person born in Mongolia (indigenous) may be</p>	Amend the Environmental Protection Law and the EIA Law 1998 to explicitly require the consent of affected national minorities for project activities that would include their physical displacement from traditional or customary lands for which they have not been given legal rights to own and use.

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	<p>removing his/her land with or without replacement, with compensation, fully or partially for special needs of government, submit such proposal to the Cabinet.</p> <p>42.2. Upon consideration of the proposal of the government authority on removing land with or without replacement, in whole or in part, and with compensation from the land's possessor, and consideration of the agreement with the land possessor the Cabinet shall make an appropriate decision.</p> <p>42.3. Governors of soums or districts shall, on the basis of the Cabinet decision referred to in provision 2 of this article, make a contract with the land possessor citizen, company or organization and remove the land from their possession with or without replacement and with compensation.</p>	<p>eligible to be elected President.</p> <p>The Land Law 2002 appears to require agreement/consent of any person whose land rights are withdrawn. The law applies to anyone possessing or using land, which may be interpreted to include national minorities who have been granted ownership or use of land. The law does not appear to make any provision for safeguarding the interests of national minorities who have not applied for and been granted ownership or use of land.</p> <p>The Environmental Protection Law and the EIA Law do not make any provision for safeguards for national minorities in the event a proposed project would displace them from their land.</p>	
<p>Key element (3): Consent of affected Indigenous Peoples communities is required for project activities that would include commercial</p>	<p>No corresponding legal provision.</p>	<p>No equivalence</p>	<p>Amend the EIA Law 1998 to explicitly require the written consent of affected national minorities for project activities that would include commercial development of natural resources within</p>

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development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples.			their customary lands that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define their identity and community.
Policy Principle 5: Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected Indigenous Peoples communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and that their benefits are equitably shared.			
Key element (1): Project design avoids, to the maximum extent possible, any restrictions on Indigenous Peoples' access to, and physical displacement of Indigenous Peoples from, protected areas and natural resources.	<p>Law on Special Protected Areas 1994</p> <p>Article 11. Limited Use Zone Regime The following activities may be conducted in limited use zones using environmentally safe technologies and with appropriate licenses or permits:...</p> <p>9) Worshipping natural sacred sites and conducting other traditional ceremonies; 10) In the case of local residents, the collection and use of associated natural resources and medicinal and food plants, according to established regulations, for household needs.</p> <p>Article 17. Limited Use Zones Regime The following activities may be conducted in limited use zones: 1) Activities described in articles 11, 15, and 16 of this Law; 2) Traditional animal husbandry;...</p> <p>Article 21. Nature Reserve Regime 1. Traditional household activities may be carried out in nature reserves provided they do not have a negative impact on the natural features, the condition and location of certain types of natural resources, population levels, and the reproduction of flora and fauna for which the reserve is under protection.</p> <p>Article 30. Activities of the Protected Area Administrations in Strictly Protected Areas and National Conservation Parks The protected area administrations in strictly protected areas and national conservation parks (hereinafter "protected area administration") shall carry out the following activities:...</p> <p>8) Regulating the worship of natural sacred sites and other traditional ceremonies;... 10) Identifying areas to be used by citizens and economic entities according to the appropriate procedures, as well as the types and number of livestock permitted in the authorized zones.</p>	<p>Partial equivalence</p> <p>The Law on Special Protected Areas provides for traditional uses within legally-designated protected areas.</p> <p>The Environmental Protection Law and the EIA Law do not require proposed projects to avoid restrictions on national minorities' access to and uses of protected areas.</p>	<p>Amend the EIA Law 1998 to explicitly stipulate that project proponents must reach prior agreement with affected national minorities, on a project-specific basis, that displacement from protected areas and natural resources will be avoided to the maximum extent possible and reflect this agreement in the project design.</p> <p>Amendments to the EIA Law 1998 must be consistent the provisions in the Law on Special Protected Areas, and any amendments to that law, which provide for traditional uses within legally-designated protected areas.</p>
Key element (2):	Environmental Protection Law of Mongolia 1995, amended up to 2005	Partial equivalence	Amend the EIA Law 1998 to

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Where avoidance is not possible, project designs ensure that the affected Indigenous Peoples communities can participate in the design, implementation, and monitoring and evaluation of management arrangements for such protected areas and natural resources.	<p>Article 3. Resources protected by law and relevant definitions 2. For the purposes of this law these terms have the following meaning:.. 8. the term “the user group”/nukhurlul/ shall mean a voluntary group of the community users that is formed in compliance with the Article 481.1 of the Civil Code of Mongolia and operates on the contract basis as specified in the Civil Code with the mission to conserve the specific natural resources within their community boundaries, and to contractually own and use those natural resources in a sustainable manner.</p> <p>Article 17. Plenary rights of Soum and Duureg Citizens' Representative Hural and Governors 2. Soum and Duureg Governors shall have the following plenary rights in respect of environmental protection:.. 7. based on the decision made in compliance with the Article 17, Paragraph 1, Sub-paragraph 5 of this Law to sign a time-limited and condition-framed contract with the user group on the use, possession, and conservation of the specific natural resource in accordance with the existing legislation.</p> <p>Article 31. User Group 1. The local community members can take part in conservation activities by organizing a user group in compliance with the Article 3, Paragraph 2, Sub-paragraph 8 of this Law and shall have a privileged right for the use and possession of the specific natural resource within the territory, the conservation of which they are responsible for according to the contract within the existing legislation. 2. A member of the user group shall be a citizen of Mongolia over age 18, a permanent resident, registered in the soum or duureg. 3. Central State administrative body in charge of nature and the environment shall approve the bylaws of the user group to conserve, use, and possess the specific natural resource. 4. Based on the bylaws approved by the central State administrative body in charge of nature and the environment according to the paragraph 3 of this Law, the all-members meeting of the user group shall discuss and approve the conservation workplan. 5. The membership number of the user group, the size of the area, the natural resources deposits, and their specific features shall be considered when the responsibility for the specific natural resources is delegated to the user group according to the contract. 6. The specific natural resources under the responsibility of the user group shall not include the land, underground resources, pasture, the water resources, and special purposes land.</p>	There does not appear to be a legal provision requiring that national minorities participate in management of protected areas from which they may be displaced. The 2005 amendment to the Environmental Protection Law added provisions enabling communities to organize user groups/ <i>nukhurlul</i> to manage natural resources. ⁴ This provision is not related to project design or the EIA process, but could support a requirement that national minorities participate in managing natural resources in the area of influence of any project that restricts their access to those resources.	<p>explicitly stipulate that where avoidance is not possible, project designs ensure that affected national minorities can participate in the design, implementation, and monitoring and evaluation of management arrangements for any special protected areas from which a proposed project would displace them.</p> <p>With respect to any natural resources to which national minorities' access may be restricted as a result of a proposed project, amend the EIA Law 1998 to be consistent with the provisions in the Environmental Protection Law and the Ministers Resolution No. 114, 2007, which provide for creating user groups/<i>nukhurlul</i> to manage natural resources in a proposed project's area of influence.</p>
Key element (3): Where avoidance is not	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that,

⁴ There is a Ministers Resolution, No. 114, 2007, which regulates user groups/*nukhurlul* in more detail. The text of the Resolution was not available for this assessment, but an abstract is available in English. Available online: <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/91036/105351/F1573264246/MNG91036%20Eng%20Abstract.pdf>

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possible, project designs ensure that affected Indigenous Peoples communities share equitably in project benefits.			where avoidance is not possible, project designs must ensure that affected national minorities can share equitably in project benefits.
Policy Principle 6: Prepare an Indigenous Peoples plan (IPP) that is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous knowledge and participation by the affected Indigenous Peoples communities. The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation; specifies measures to ensure that Indigenous Peoples receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.			
Key element (1): When Indigenous Peoples communities are present in the project area, or are likely to be affected by project activities, an Indigenous Peoples Plan (IPP) is prepared.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that, when national minorities are present in a project area, or are likely to be affected by project activities, project proponents must prepare the equivalent of an Indigenous Peoples Plan.
Key element (2): The IPP is based on social impact assessment and is prepared by qualified experts.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must be based on social impact assessment and must be prepared by qualified experts.
Key element (3): The IPP draws on indigenous knowledge and participation by the affected Indigenous Peoples communities.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must draw on national minorities' knowledge and participation.
Key element (4): The IPP includes a framework for continued consultation with the affected	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must include a framework for continued

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Indigenous Peoples communities during project implementation.			consultation with affected national minorities during project implementation.
Key element (5): The IPP includes specific measures to ensure that Indigenous Peoples communities receive culturally appropriate benefits.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must include specific measures to ensure that national minorities receive culturally appropriate benefits.
Key element (6): The IPP identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must identify measures to avoid, minimize, mitigate, or compensate for any adverse project impacts.
Key element (7): The IPP includes a culturally appropriate grievance redress mechanism.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must include a culturally appropriate grievance redress mechanism.
Key element (8): The IPP includes arrangements for monitoring during project implementation and for evaluation of results.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must include arrangements for monitoring during project implementation and for evaluation of results.
Key element (9): The IPP includes a budget and time-bound plan for implementing all required actions.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must include a budget and time-bound plan for implementing all

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Policy Principle 7: Disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected Indigenous Peoples communities and other stakeholders. The final IPP and its updates will also be disclosed to the affected Indigenous Peoples communities and other stakeholders.			
Key element (1): A draft IPP (including documentation of consultations with Indigenous Peoples communities and social impact assessment results is publicly disclosed in a timely manner before project appraisal.	Constitution 1992, amended 1999 Article 16 The citizens of Mongolia shall be guaranteed the privilege to enjoy the following rights and freedoms:... 17) Right to seek and receive information except that which the State and its bodies are legally bound to protect as secret... The Minerals Law of Mongolia 2006 as amended Article 11. Responsibilities of government agency 11.1. Government agency in charge of geology and mining issues shall have the following duties:... 11.1.15 provide the public with access to the processes of issuing and reissuing of licenses, license revocation, transfer, pledge and surrender of for the entire or a part of the licensed area;... Article 57. Access to minerals related information and reports 57.4. The Government agencies in charge of the environmental and geology and mining shall publicize and disseminate electronic copies of information on environmental impact assessment, environmental protection plan...	No equivalence The Minerals Law 2006 requires disclosing EIA reports and EMPs, but does not require an IPP or equivalent.	Amend the EIA Law 1998 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent, including documentation of consultations with affected national minorities, and social impact assessment results, is publicly disclosed in a timely manner before project appraisal.
Key element (2): The disclosed draft IPP is accessible to, and in a form and language(s) understandable to, affected Indigenous Peoples communities and other stakeholders.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must be accessible to, and in a form and language(s) understandable to, affected national minorities and other stakeholders.
Key element (3): The final IPP (and any subsequent updates) also are disclosed to affected Indigenous Peoples communities and other stakeholders.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent and any subsequent updates must be disclosed to affected national minorities and other stakeholders.

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Policy Principle 8: Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.			
Key element (1): Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly include in the EIA process a requirement that: 1. in the event that a proposed project's activities are contingent on establishing legally recognized rights of national minorities to land; and/or 2. in the event of involuntary acquisition of lands traditionally occupied by national minorities, project proponents must prepare an action plan for securing legal recognition of the national minorities' rights to lands they have traditionally occupied.
Key element (2): Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves involuntary acquisition of such areas.	No corresponding legal provision.	No equivalence	See Policy Principle 8, Key element 1.
Policy Principle 9: Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPP's objective and desired outcome have been achieved, taking into account the baseline conditions and the results of IPP monitoring. Disclose monitoring reports.			
Key element (1): Monitor implementation of the IPP using qualified and experienced experts.	Environmental Protection Law of Mongolia 1995, amended up to 2005 Article 26 5. Only a university graduate, who has been trained in or has gained sufficient work experience in ecology, conservation, environmental monitoring, and/or environmental impact assessment shall be hired as a General State Environmental Inspector.	No equivalence The Environmental Protection Law requires that environmental	Amend the EIA Law 1998 to explicitly stipulate that the implementation of an Indigenous Peoples Plan or the equivalent must be

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		inspectors be professionally qualified, but there is no legal requirement to prepare and monitor an IPP or equivalent.	monitored by qualified and experienced experts.
Key element (2): Include arrangements for participatory monitoring whenever possible.	The Minerals Law of Mongolia 2006 as amended Article 42. Relations with local administrative bodies 42.3. The Citizens may elect a representative whose obligation is to provide public monitoring on the license holder's activities.	Partial equivalence The Minerals Law 2006 enables, but does not require, citizen monitoring of activities carried out by the holder of a mining license. The legal provision does not explicitly enable monitoring of impacts on national minorities, but does not exclude such monitoring.	Amend the Environmental Protection Law and the EIA Law 1998 to explicitly stipulate that project design must include arrangements for participatory monitoring of the implementation of an Indigenous Peoples Plan or the equivalent, wherever possible. Amend the Minerals Law 2006 to make it mandatory for citizen monitoring of activities carried out by the holder of a mining license to be carried out.
Key element (3): Assess whether IPP objectives and desired outcomes are achieved, taking into account baseline conditions and monitoring results.	No corresponding legal provision.	No equivalence	Amend the EIA Law 1998 to explicitly stipulate that participatory monitoring of the implementation of an Indigenous Peoples Plan or the equivalent must assess whether the plan's objectives and desired outcomes are achieved, taking into account baseline conditions and monitoring results.
Key element (4): Monitoring reports are disclosed.	See Policy Principle 7, Key element 1 and Policy Principle 9, Key element 2. The Minerals Law of Mongolia 2006 as amended Article 57. Access to minerals related information and reports	No equivalence The Minerals Law 2006 requires disclosure of	Amend the EIA Law 1998 to explicitly require that monitoring reports must be disclosed.

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	57.4. The Government agencies in charge of the environmental and geology and mining shall publicize and disseminate electronic copies of information on environmental impact assessment, environmental protection plan...	EIA reports and EMPs and enables citizen monitoring, but does not require disclosing monitoring reports.	

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